

**REGULAR MONTHLY MEETING OF THE STEPHENS CITY TOWN COUNCIL  
TUESDAY, SEPTEMBER 2, 2008  
7:30 p.m.**

Mayor Ray Ewing called the meeting to order at 7:30 p.m. and lead the Pledge of Allegiance.

Vice Mayor Shull gave the invocation.

Roll call showed the following present:

Vice Mayor Shull, Council member Ron Bowers, Council member Michael Grim, Council member James Harter; Council member Linden A. Fravel, Jr. Council member Joseph Hollis was absent.

Staff present: Mike Kehoe, Town Administrator; David Griffin, Town Attorney; Brian Henshaw, Town Planner; Dianne MacMillan, Town Clerk.

Others present: Rick Dutrow, 5282 Mulberry Ct.

Press: Jason Kane, Winchester Star

**AMEND AGENDA**

Mayor Ewing asked that the Agenda be amended to add a Closed Session at the end of the meeting. Vice Mayor Shull moved that the agenda be amended to include a Closed Session and the motion passed.

**ACTION AGENDA**

Vice Mayor Shull moved to adopt the agenda as amended and the motion passed.

**PUBLIC COMMENTS**

Mr. Rick Dutrow, 5282 Mulberry Ct., addressed Council on safety issues which included the need for a stop sign at the intersection of Mulberry Street and Mulberry Court; a request for no-parking signs on the left side of Mulberry Ct; and overhanging shrubbery on Martin Street. Mr. Dutrow said that it was impossible to see around the corner on Mulberry St. and there had been many close calls. He said he had been asking for this for some time. He added that it would be nice to see a sidewalk from the new subdivision on down Mulberry also. Mayor Ewing said these issues would be addressed by the Public Safety Committee. Mr. Kehoe stated that he had contacted VDOT regarding the stop sign location twice before and been turned down. He said after grading at the intersection takes place, VDOT can assess sight distances that might warrant a stop sign. He added that the sidewalk project on Mulberry would be starting soon. Mr. Kehoe said that on the issue of parking on that specific portion of the street, parking is limited on the driveways of the houses but agreed that the street is narrowed by the parked cars.

## **MINUTES – August 5, 2008 Regular Meeting**

Council member Grim moved for approval of the minutes of August 5, 2008 as presented and the motion carried by the following vote:

### **Recorded Vote:**

Vice Mayor Shull	-	Aye
Council member Bowers	-	Aye
Council member Fravel	-	Aye
Council member Grim	-	Aye
Council member Harter	-	Aye
Council member Hollis	-	Absent

## **TREASURER’S REPORT**

The Mayor asked for questions or comments on the Treasurer’s report and there were none. The Treasurer’s report was accepted as presented.

## **POLICE REPORT**

Mayor Ewing said the police report had been distributed, asked for any questions or comments and there were none. The police report was accepted as presented.

## **ACTION AGENDA**

### **A. Resolution – Regional Water Supply Planning**

Mayor Ewing asked Mr. Kehoe for background on the proposed resolution. Mr. Kehoe explained that the General Assembly required all local governments to adopt a water supply plan and most municipalities in this region decided to participate with the Planning District Commission in a regional plan. He said that it made sense to do that as it is a regional issue and provides a long range plan for the region. Council member Harter moved that the Town Council adopt the resolution (copy attached) joining in the Regional Water Supply Plan. The motion passed with the following vote:

### **Recorded Vote:**

Vice Mayor Shull	-	Aye
Council member Bowers	-	Aye
Council member Fravel	-	Aye
Council member Grim	-	Aye
Council member Harter	-	Aye
Council member Hollis	-	Absent

### **B. Resolution – Northern Shenandoah Valley Regional Commission Charter Amendments**

Mayor Ewing introduced the resolution and asked Mr. Kehoe for a summary. Mr. Kehoe explained that the amendments would result in a reduction in the membership from 34 to 23 to make the board more manageable. He added that the town would not lose any representatives. Vice Mayor Shull moved that the Council of the Town of Stephens City adopt the Resolution

(copy attached) for amendments to the Northern Shenandoah Regional Commission Charter. The motion passed with the following vote:

Recorded Vote:

Vice Mayor Shull	-	Aye
Council member Bowers	-	Aye
Council member Fravel	-	Aye
Council member Grim	-	Aye
Council member Harter	-	Aye
Council member Hollis	-	Absent

C. Resolution – Charge Off Uncollectible Personal Property Taxes

Council member Harter reported the Finance Committee recommended that Council adopt a resolution to charge off personal property taxes. Mr. Griffin, Town Attorney explained that the resolution was the only way to take the amounts off the treasurer's books. Council member Harter moved that the Town Council adopt the resolution (copy attached) charging off personal property taxes from 1998 thru 2002 as uncollectible. The motion passed with the following vote:

Recorded Vote:

Vice Mayor Shull	-	Aye
Council member Bowers	-	Aye
Council member Fravel	-	Aye
Council member Grim	-	Aye
Council member Harter	-	Aye
Council member Hollis	-	Absent

D. Joint Land Use Committee Charged to Work on Definitions in Annexation Area

Mayor Ewing asked Mr. Henshaw, Town Planner, to explain the proposal. Mr. Henshaw said the Planning Commission recommended that the town invite County officials to participate in updating the Joint Land Use Plan. He advised that with the Russell-Stephens City rezoning application discrepancies were found between the joint land use plan and the town's Comprehensive Plan. He stated that the applicant for Russell-Stephens City development has conformed with the Comprehensive Plan requirements but might not conform with the Joint Land Use Plan. He added that this was an issue for this particular rezoning application now and would be an issue in any future rezoning applications.

He stated that the best way to address this was to use the Joint Land Use Committee to review these annexation areas because the demands have changed in the past years. He said the legal language in the annexation agreement does not match up with the joint land use plan specifically on the definition of mixed land use. Mayor Ewing asked what type of action would be needed to change the language in the agreement. Town Attorney, Dave Griffin said it would be an action of each body and would be simply both boards agreeing to changes and would require no changes to the annexation agreement or to the obligations under the court order. He added that it

would not be tied to any specific development. He said the Joint Land Use Plan was designed to look at all definitions and allow for changes over time. Mr. Kehoe said he was concerned with the length of time it might take to address the definition because there was an active rezoning application in progress. Council member Fravel said there was a need to look at the north end and as long as the road network was in place and sufficiently planned to take care of the whole development they could settle this issue first. He added that there are other properties that will request more commercial and will have to be dealt with in the future. He stated that dialog was the most important thing to have.

Vice Mayor Shull moved that “the Council of the Town of Stephens City task Brian Henshaw, Town Planner, to invite Frederick County officials to allow their Planning Department staff to work together with our staff with the appointed Joint Land Use Committee to review, readdress, recommend revision and more accurately describe and define the intended land uses within the Joint Annexation Area; and the Town believes that this is the best direction in which both jurisdictions should proceed, however the purpose of the exercise is to work on the future land use of the Joint Annexation Areas.” The motion passed with the following vote:

Recorded Vote:

Vice Mayor Shull	-	Aye
Council member Bowers	-	Aye
Council member Fravel	-	Aye
Council member Grim	-	Aye
Council member Harter	-	Aye
Council member Hollis	-	Absent

E. Sherando High School Homecoming Carnival

Mr. Kehoe said the homecoming parade and carnival would be the same as in 2007 and VDOT had already approved the parade on Friday, October 3 at 6:00 from Martin Street to the Commons. The carnival and pep rally will be held on the Commons. Council member Bowers moved to allow Sherando High School to use Newtown Commons for its pep rally and carnival.

Recorded Vote:

Vice Mayor Shull	-	Aye
Council member Bowers	-	Aye
Council member Fravel	-	Aye
Council member Grim	-	Aye
Council member Harter	-	Aye
Council member Hollis	-	Absent

**COMMITTEE REPORTS**

A. Finance Committee – Joseph Hollis, Chair

Mr. Harter reported that the Finance Committee recommended the institution of permanent decals for the year 2009 in order to get away from having to replace decals each year. Mayor

Ewing said the recommendation for the year 2009 was to go to a permanent decal billed along with personal property tax. He said there was a DMV program through which the town could attempt collection from those who do not pay. He said the Ordinance would have to be rewritten to have the authority to do that and impose a fee for handling enforcement through VDOT. Council member Harter moved to recommend adoption of a permanent automobile decal beginning in the year 2009. The motion passed.

Mr. Harter advised that the Finance Committee also recommended instituting a minimum business license fee of \$15.00 with anything over \$10,000 being calculated at \$.15 per \$100 of gross receipts. Mr. Griffin noted that caps on certain types of businesses are set by enabling legislation that restrict license based on gross receipts. Council member Fravel noted that a minimum fee was used several years ago but the town was informed that this was illegal at that time. Mr. Griffin said that legislation continually changes and that this change to the license ordinance was possible. Council member Fravel moved that Council request the Town Attorney to prepare amendments to the ordinance to permit a minimum license fee of \$15.00. The motion passed.

Council member Harter also reported that the finance committee also recommended an increase to the amount of the water/sewer deposit from \$80.00 to \$100.00. Mayor Ewing pointed out that for new owners this amount is refunded at the end of a year and for renters it is refunded or applied to final bill. He noted that this would bring the town in line with other jurisdictions. Council member Grim noted that renter's bills are the responsibility of the property owner. Council member Fravel said a lot of water bills are exceeding the deposits and this would help cover any unpaid bills without involving the property owner. After discussion regarding collection of delinquent water bills, Mr. Harter moved that Council request amendments to the Town Code to increase the water/sewer deposit to \$100.00. The motion passed.

B. Water & Sewer Committee – Joy Shull, Chair  
No report

C. Public Works Committee – Mike Grim, Chair  
No report.

D. Public Safety Committee – Ron Bowers, Chair  
No report

#### **PLANNER'S REPORT – Brian Henshaw**

Mr. Henshaw reported that further information on the Joint Land Use Committee was available to Council. He also reported that that the Crooked Lane project was moving along. The work on one of the houses being rehabbed was progressing rapidly.

#### **TOWN MANAGER'S REPORT – Mike Kehoe**

1. Mr. Kehoe said the Stephens Court water line work had begun and will continue for another two weeks.

2. Mr. Kehoe reported that the old school project, waterproofing of the foundation, had been completed. He said that after the Peter B. Stickley Foundation meeting this week, the next phase of the project would be determined.

3. Mr. Kehoe said that the new radio-read water meters were being installed on Crooked Lane and Rowe Lane so everything would be new. He said that the overall project is looking nice.

4. He said starting this week citizens can put newspapers, co-mingled, out with the recycling and this change would be noted in the newsletter. He added that the newspaper drop-off site at the school would not be closed right away but would be phased out.

5. Mr. Kehoe said he would look into the traffic backup problems (everyday at lunch and on Sundays around 11:00 a.m.) at the light with VDOT. Council member Grim noted that it was especially bad on Sundays and suggested they check on the situation about eleven a.m.

### **COUNCIL COMMENTS/CALENDAR**

By consensus of Council the Parks & Recreation Committee meeting was changed to September 22<sup>nd</sup> with regular meetings to be held on the fourth Monday of each month. The Water/Sewer Committee meeting was moved to an earlier time of 8:45 a.m. on the 18<sup>th</sup> of September.

### **MOTION FOR CLOSED MEETING**

Date: September 2, 2008

Motion By: Vice Mayor Shull

I move that the Council of the Town of Stephens City enter Closed Session pursuant to Section 2.2-3711.A.7 of the Code of Virginia, 1950, As Amended, for the purpose of consultation with legal counsel pertaining to actual or probable litigation.

VOTE:

Aye – Vice Mayor Shull  
Council member Bowers  
Council member Fravel

Council member Grim  
Council member Harter

Nay – None

Absent – Council member Hollis

ATTEST: \_\_\_\_\_  
Dianne L. MacMillan, CMC  
Town Clerk

**CERTIFICATION OF CLOSED MEETING**

**RESOLUTION**

Date: September 2, 2008

Motion By: Vice Mayor Shull

WHEREAS, the Council of the Town of Stephens City, Virginia has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712.D of the Code of Virginia requires a certification by this Council that such Closed Meeting was conducted in conformity with Virginia law,

NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

RECORDED ROLL CALL VOTE:

Aye – Mayor Ewing	Vice Mayor Shull
Council member Bowers	Council member Grim
Council member Fravel	Council member Hollis

Nay – None

Abstain - None

Absent – Council member Hollis

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Dianne L. MacMillan, CMC, Town Clerk

No action was taken as a result of the Closed Session.

There being no further business, Council member Grim moved to adjourn at 9:30 p.m. and the motion carried.

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Ray E. Ewing, Mayor Ray Ewing

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Dianne L. MacMillan, CMC, Town Clerk